IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A. No. 33 of 2007

Date of Decision :7.5.2007

Commissioner of Central Excise, Ludhiana

...Appellant

Versus

M/s. Dirba Pipes (P) Ltd., Sangrur Road, Dirba (Punjab) and another

...Respondent.

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present : Mr. Sanjiv Kaushik, Advocate
for the revenue

M.M. KUMAR, J.(ORAL)

The revenue has invoked Section 35(G) of the Central Excise Act, 1944 while challenging the order dated 26.6.2006 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi.

We have perused the order of the Tribunal as well as of the Commissioner Appeal and find that there are no findings recorded by either of them that there was any intention on the part of the assessee – respondent to evade payment of duty. In the absence of any finding with regard to intention to evade the payment of duty, the provisions made under Section 11 AC would not be attracted for imposition of penalty equal to the amount of duty. There is no question of law, which would warrant interference of this Court. Thus, there is no merit in this appeal.

Dismissed.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 7, 2007
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